

REMARKS

Claims 4-30 are pending in the application. Claims 4-20 and 26-30 are allowed. Claims 21-25 were rejected. Applicants respectfully request reconsideration of the rejected claims in view of the following remarks.

Claims 21-25 were rejected as anticipated by Damaghi et al., U.S. Patent No. 6,306,121. Damaghi et al. was filed September 8, 1998, and is a continuation-in-part of U.S. Application No. 09/097,198, filed June 12, 1998. Applicants claim priority to SE 9703882-2, filed October 24, 1997, which claim was acknowledged in the Office Action mailed May 10, 2004. The Office Action further acknowledged that copies of the certified copy of the priority document had been received. Applicants submit herewith a verified translation of the priority document, SE 9703882-2, according to 37 C.F.R. § 1.55(a)(4). In view of the earlier filing date of the Swedish priority document in this application, Damaghi et al. is not prior art to this application and Applicants respectfully request that this rejection be withdrawn.

Claims 21-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over New et al., H1440, in view of Herrin et al., U.S. Patent No. 5,706,524. Applicants respectfully traverse this rejection.

Claim 21 is directed to a garment comprising an absorbent part and two separate waist belts which have a longitudinal direction, a cross-direction, longitudinally extending edge parts and a longitudinally extending interior part that is arranged between the longitudinally extending edge parts. The belts extend generally in the longitudinal direction, one end of each of the two separate belts is permanently fastened directly or indirectly to the absorbent part, and opposite ends of each of the two separate belts extend in respective directions from said absorbent

part and are adapted to be fastened together around a wearer of the garment. The belts have a stiffening material that forms a stiffness that varies in the cross-direction of the belts, wherein the stiffness that varies has an extension in the longitudinal direction, and wherein a piece at an end of at least one of the belts is free from stiffening material.

New et al. describes a fitted belt for absorbent garments. The belt is the component of the garment 10 to which both waist margins 32 and 34 of the disposable assembly 14 are attached which encircles the waist of the wearer. The belt 12 is bounded by two spaced apart laterally extending edges which define the width of the belt. The belt is generally arcuate in shape and has a curvilinear length taken generally midway between the laterally extending edges. *Column 9, line 63 – column 10, line 23.* The belt is preferably reusable and not intended to be soiled by the collection of bodily discharges or disposed of when the core becomes loaded with bodily discharges. *Column 10, lines 24-27.*

Herrin et al. is directed to a disposable undergarment waistband that attaches and detaches to a disposable undergarment panel. The waistband is secured to an upper peripheral end portion of the disposable undergarment panel. The belt portions do not attach to each other. See *Figures.*

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. *MPEP § 2143.* These criteria have not been met.

According to the Office Action, it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the garment of New with the waist belts of Herrin, to provide good stretch and recovery characteristics and easy attachment. Applicants disagree.

New et al. describes a belt with a particular shape for the laterally extending edges and provides a preferred formula for determining the belts which meet the desired criteria. *Column 12, line 66 – column 14, line 55.* The belt of New et al. has a means for causing one laterally extending edge to have length greater than that of the other laterally extending edge when the belt is encircled about a wearer. Herrin et al., on the contrary, describes a disposable undergarment waistband wherein the belts are secured to an upper peripheral end portion of a disposable under garment panel. The belts are not attached to each other; rather they are attached to the upper peripheral portions of the undergarment panel on both ends and fastening means are provided at the ends of the belts.

As noted, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. However, no such motivation is found here. The belt of New et al. is constructed in a particular way to obtain certain advantages. See, *columns 12-14.* New et al. particularly describes belts which may be reused and have a construction which is better fitting and conforms to the wearer. Herrin et al. describes a disposable waistband which may be efficiently formed, is easily attachable and detachable and has good stretching and recovery characteristics. The purpose in the teachings of New et al. and Herrin et al. are, thus, quite different. One of skill in the art would not substitute the belt of Herrin et

al. for the belt of New et al., thus losing the advantages taught by New et al. New et al. and Herrin et al. describe different belts with different properties and purposes.

Use of the structure of Herrin et al. would completely distort the construction of New et al., defeating the described advantages.

By way of example, combining the teachings thereof would not have led to the garment claimed since New et al. describes a particular construction, arcuate in shape and with a curvilinear length. The belt comprises a means for causing one laterally extending edge to have length greater than that of the other laterally extending edge when the belt is encircled about a wearer. This means for causing a difference in length of the edges results in fitting the belt to the shape of the wearer and is not due to the mere difference in lengths of the edges at the overlap of various portions of the belt. *Column 10, lines 10-23.* Herrin et al., to the contrary, describes a belt with fastening means provided at the ends of the belts, not a belt with overlap and edges as required by New et al. One of skill in the art would not have combined the belts of New et al. and Herrin et al. since such combination would have defeated the purpose of one or both inventions as described. Thus, neither New et al. nor Herrin et al. provides any motivation for modifying the belt of New et al. as indicated by the Office Action.

New et al. and Herrin et al., alone, or in combination, would not have led one of skill in the art to the garment as defined in the rejected claims given the lack of motivation to combine the patents. In view thereof, Applicants respectfully request that this rejection be withdrawn.

Applicants believe the rejected claims are now in condition for allowance. In the event that there are any questions concerning this Response, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,
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